



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 157

2 AMENDMENT NO. _____. Amend Senate Bill 157 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Condominium Property Act is amended by
5 changing Sections 2, 9, and 22.1 as follows:

6 (765 ILCS 605/2) (from Ch. 30, par. 302)

7 Sec. 2. Definitions. As used in this Act, unless the
8 context otherwise requires:

9 (a) "Declaration" means the instrument by which the
10 property is submitted to the provisions of this Act, as
11 hereinafter provided, and such declaration as from time to time
12 amended.

13 (b) "Parcel" means the lot or lots, tract or tracts of
14 land, described in the declaration, submitted to the provisions
15 of this Act.

16 (c) "Property" means all the land, property and space

1 comprising the parcel, all improvements and structures
2 erected, constructed or contained therein or thereon,
3 including the building and all easements, rights and
4 appurtenances belonging thereto, and all fixtures and
5 equipment intended for the mutual use, benefit or enjoyment of
6 the unit owners, submitted to the provisions of this Act.

7 (d) "Unit" means a part of the property designed and
8 intended for any type of independent use.

9 (e) "Common Elements" means all portions of the property
10 except the units, including limited common elements unless
11 otherwise specified.

12 (f) "Person" means a natural individual, corporation,
13 partnership, trustee or other legal entity capable of holding
14 title to real property.

15 (g) "Unit Owner" means the person or persons whose estates
16 or interests, individually or collectively, aggregate fee
17 simple absolute ownership of a unit, or, in the case of a
18 leasehold condominium, the lessee or lessees of a unit whose
19 leasehold ownership of the unit expires simultaneously with the
20 lease described in item (x) of this Section.

21 (h) "Majority" or "majority of the unit owners" means the
22 owners of more than 50% in the aggregate in interest of the
23 undivided ownership of the common elements. Any specified
24 percentage of the unit owners means such percentage in the
25 aggregate in interest of such undivided ownership. "Majority"
26 or "majority of the members of the board of managers" means

1 more than 50% of the total number of persons constituting such
2 board pursuant to the bylaws. Any specified percentage of the
3 members of the board of managers means that percentage of the
4 total number of persons constituting such board pursuant to the
5 bylaws.

6 (i) "Plat" means a plat or plats of survey of the parcel
7 and of all units in the property submitted to the provisions of
8 this Act, which may consist of a three-dimensional horizontal
9 and vertical delineation of all such units.

10 (j) "Record" means to record in the office of the recorder
11 or, whenever required, to file in the office of the Registrar
12 of Titles of the county wherein the property is located.

13 (k) "Conversion Condominium" means a property which
14 contains structures, excepting those newly constructed and
15 intended for condominium ownership, which are, or have
16 previously been, wholly or partially occupied before recording
17 of condominium instruments by persons other than those who have
18 contracted for the purchase of condominiums.

19 (l) "Condominium Instruments" means all documents and
20 authorized amendments thereto recorded pursuant to the
21 provisions of the Act, including the declaration, bylaws and
22 plat.

23 (m) "Common Expenses" means the proposed or actual expenses
24 affecting the property, including reserves, if any, lawfully
25 assessed by the Board of Managers of the Unit Owner's
26 Association.

1 (n) "Reserves" means those sums paid by unit owners which
2 are separately maintained by the board of managers for purposes
3 specified by the board of managers or the condominium
4 instruments.

5 (o) "Unit Owners' Association" or "Association" means the
6 association of all the unit owners, acting pursuant to bylaws
7 through its duly elected board of managers.

8 (p) "Purchaser" means any person or persons other than the
9 Developer who purchase a unit in a bona fide transaction for
10 value.

11 (q) "Developer" means any person who submits property
12 legally or equitably owned in fee simple by the developer, or
13 leased to the developer under a lease described in item (x) of
14 this Section, to the provisions of this Act, or any person who
15 offers units legally or equitably owned in fee simple by the
16 developer, or leased to the developer under a lease described
17 in item (x) of this Section, for sale in the ordinary course of
18 such person's business, including any successor or successors
19 to such developers' entire interest in the property other than
20 the purchaser of an individual unit.

21 (r) "Add-on Condominium" means a property to which
22 additional property may be added in accordance with condominium
23 instruments and this Act.

24 (s) "Limited Common Elements" means a portion of the common
25 elements so designated in the declaration as being reserved for
26 the use of a certain unit or units to the exclusion of other

1 units, including but not limited to balconies, terraces, patios
2 and parking spaces or facilities.

3 (t) "Building" means all structures, attached or
4 unattached, containing one or more units.

5 (u) "Master Association" means an organization described
6 in Section 18.5 whether or not it is also an association
7 described in Section 18.3.

8 (v) "Developer Control" means such control at a time prior
9 to the election of the Board of Managers provided for in
10 Section 18.2(b) of this Act.

11 (w) "Meeting of Board of Managers or Board of Master
12 Association" means any gathering of a quorum of the members of
13 the Board of Managers or Board of the Master Association held
14 for the purpose of conducting board business.

15 (x) "Leasehold Condominium" means a property submitted to
16 the provisions of this Act which is subject to a lease, the
17 expiration or termination of which would terminate the
18 condominium and the lessor of which is (i) exempt from taxation
19 under Section 501(c)(3) of the Internal Revenue Code of 1986,
20 as amended, (ii) a limited liability company whose sole member
21 is exempt from taxation under Section 501(c)(3) of the
22 Internal Revenue Code of 1986, as amended, or (iii) a Public
23 Housing Authority created pursuant to the Housing Authorities
24 Act that is located in a municipality having a population in
25 excess of 1,000,000 inhabitants.

26 (y) "Electronic transmission" means any form of

1 communication, not directly involving the physical
2 transmission of paper, that creates a record that may be
3 retained, retrieved, and reviewed by a recipient and that may
4 be directly reproduced in paper form by the recipient through
5 an automated process.

6 (z) "Acceptable technological means" includes, without
7 limitation, electronic transmission over the Internet or other
8 network, whether by direct connection, intranet, telecopier,
9 or electronic mail.

10 (aa) "Real estate owned purchaser" or "REO purchaser" means
11 a purchaser of a condominium unit from a mortgagee or its
12 assignee who acquired title through a judicial foreclosure, a
13 consent foreclosure, a common law strict foreclosure, or the
14 delivery of a deed in lieu of foreclosure.

15 (Source: P.A. 98-1042, eff. 1-1-15.)

16 (765 ILCS 605/9) (from Ch. 30, par. 309)

17 Sec. 9. Sharing of expenses - Lien for nonpayment.

18 (a) All common expenses incurred or accrued prior to the
19 first conveyance of a unit shall be paid by the developer, and
20 during this period no common expense assessment shall be
21 payable to the association. It shall be the duty of each unit
22 owner including the developer to pay his proportionate share of
23 the common expenses commencing with the first conveyance. The
24 proportionate share shall be in the same ratio as his
25 percentage of ownership in the common elements set forth in the

1 declaration.

2 (b) The condominium instruments may provide that common
3 expenses for insurance premiums be assessed on a basis
4 reflecting increased charges for coverage on certain units.

5 (c) Budget and reserves.

6 (1) The board of managers shall prepare and distribute
7 to all unit owners a detailed proposed annual budget,
8 setting forth with particularity all anticipated common
9 expenses by category as well as all anticipated assessments
10 and other income. The initial budget and common expense
11 assessment based thereon shall be adopted prior to the
12 conveyance of any unit. The budget shall also set forth
13 each unit owner's proposed common expense assessment.

14 (2) All budgets adopted by a board of managers on or
15 after July 1, 1990 shall provide for reasonable reserves
16 for capital expenditures and deferred maintenance for
17 repair or replacement of the common elements. To determine
18 the amount of reserves appropriate for an association, the
19 board of managers shall take into consideration the
20 following: (i) the repair and replacement cost, and the
21 estimated useful life, of the property which the
22 association is obligated to maintain, including but not
23 limited to structural and mechanical components, surfaces
24 of the buildings and common elements, and energy systems
25 and equipment; (ii) the current and anticipated return on
26 investment of association funds; (iii) any independent

1 professional reserve study which the association may
2 obtain; (iv) the financial impact on unit owners, and the
3 market value of the condominium units, of any assessment
4 increase needed to fund reserves; and (v) the ability of
5 the association to obtain financing or refinancing.

6 (3) Notwithstanding the provisions of this subsection
7 (c), an association without a reserve requirement in its
8 condominium instruments may elect to waive in whole or in
9 part the reserve requirements of this Section by a vote of
10 2/3 of the total votes of the association. Any association
11 having elected under this paragraph (3) to waive the
12 provisions of subsection (c) may by a vote of 2/3 of the
13 total votes of the association elect to again be governed
14 by the requirements of subsection (c).

15 (4) In the event that an association elects to waive
16 all or part of the reserve requirements of this Section,
17 that fact must be disclosed after the meeting at which the
18 waiver occurs by the association in the financial
19 statements of the association and, highlighted in bold
20 print, in the response to any request of a prospective
21 purchaser for the information prescribed under Section
22 22.1; and no member of the board of managers or the
23 managing agent of the association shall be liable, and no
24 cause of action may be brought for damages against these
25 parties, for the lack or inadequacy of reserve funds in the
26 association budget.

1 (d) (Blank).

2 (e) The condominium instruments may provide for the
3 assessment, in connection with expenditures for the limited
4 common elements, of only those units to which the limited
5 common elements are assigned.

6 (f) Payment of any assessment shall be in amounts and at
7 times determined by the board of managers.

8 (g) Lien.

9 (1) If any unit owner shall fail or refuse to make any
10 payment of the common expenses or the amount of any unpaid
11 fine when due, the amount thereof together with any
12 interest, late charges, reasonable attorney fees incurred
13 enforcing the covenants of the condominium instruments,
14 rules and regulations of the board of managers, or any
15 applicable statute or ordinance, and costs of collections
16 shall constitute a lien on the interest of the unit owner
17 in the property prior to all other liens and encumbrances,
18 recorded or unrecorded, except only (a) taxes, special
19 assessments and special taxes theretofore or thereafter
20 levied by any political subdivision or municipal
21 corporation of this State and other State or federal taxes
22 which by law are a lien on the interest of the unit owner
23 prior to preexisting recorded encumbrances thereon and (b)
24 encumbrances on the interest of the unit owner recorded
25 prior to the date of such failure or refusal which by law
26 would be a lien thereon prior to subsequently recorded

1 encumbrances. Any action brought to extinguish the lien of
2 the association shall include the association as a party.

3 (2) With respect to encumbrances executed prior to
4 August 30, 1984 or encumbrances executed subsequent to
5 August 30, 1984 which are neither bonafide first mortgages
6 nor trust deeds and which encumbrances contain a statement
7 of a mailing address in the State of Illinois where notice
8 may be mailed to the encumbrancer thereunder, if and
9 whenever and as often as the manager or board of managers
10 shall send, by United States certified or registered mail,
11 return receipt requested, to any such encumbrancer at the
12 mailing address set forth in the recorded encumbrance a
13 statement of the amounts and due dates of the unpaid common
14 expenses with respect to the encumbered unit, then, unless
15 otherwise provided in the declaration or bylaws, the prior
16 recorded encumbrance shall be subject to the lien of all
17 unpaid common expenses with respect to the unit which
18 become due and payable within a period of 90 days after the
19 date of mailing of each such notice.

20 (3) The purchaser of a condominium unit at a judicial
21 foreclosure sale, or a mortgagee who receives title to a
22 unit by deed in lieu of foreclosure or judgment by common
23 law strict foreclosure or otherwise takes possession
24 pursuant to court order under the Illinois Mortgage
25 Foreclosure Law, shall have the duty to pay the unit's
26 proportionate share of the common expenses for the unit

1 assessed from and after the first day of the month after
2 the date of the judicial foreclosure sale, delivery of the
3 deed in lieu of foreclosure, entry of a judgment in common
4 law strict foreclosure, or taking of possession pursuant to
5 such court order. Such payment confirms the extinguishment
6 of any lien created pursuant to paragraph (1) or (2) of
7 this subsection (g) by virtue of the failure or refusal of
8 a prior unit owner to make payment of common expenses,
9 where the judicial foreclosure sale has been confirmed by
10 order of the court, a deed in lieu thereof has been
11 accepted by the lender, or a consent judgment has been
12 entered by the court.

13 (4) The purchaser of a condominium unit at a judicial
14 foreclosure sale, other than a mortgagee or its assignee,
15 who takes possession of a condominium unit pursuant to a
16 court order, or an REO a purchaser who acquires title from
17 ~~a mortgagee~~ shall have the duty to pay the proportionate
18 share, if any, of the common expenses for the unit which
19 would have become due in the absence of any assessment
20 acceleration during the 6 months immediately preceding the
21 date of the judicial foreclosure sale, delivery of a deed
22 in lieu of foreclosure, entry of a judgment in common law
23 strict foreclosure, or the taking of possession pursuant to
24 a court order under the Illinois Mortgage Foreclosure Law.
25 ~~institution of an action to enforce the collection of~~
26 ~~assessments, and which remain unpaid by the owner during~~

1 ~~whose possession the assessments accrued. If the~~
2 ~~outstanding assessments are paid at any time during any~~
3 ~~action to enforce the collection of assessments,~~

4 (4.5) The purchaser or REO purchaser identified in
5 subdivision (g) (4) of this Section shall have no obligation
6 to pay any assessments which accrued before he or she
7 acquired title, if:

8 (A) the outstanding assessments described in
9 subdivision (g) (4) of this Section are paid at any time
10 during any action to enforce the collection of
11 assessments; or

12 (B) the association has been named as a party
13 defendant in the foreclosure proceeding and fails to
14 deliver to the mortgagee and record in a timely manner
15 in the office of the recorder of deeds of the county in
16 which the unit is located a notice stating the amount
17 of common expenses due under subdivision (g) (4) of this
18 Section, including an itemization of the common
19 expenses comprising that amount; the itemization shall
20 specify, without limitation, regular monthly
21 assessments, special assessments, late charges,
22 interest, reasonable attorney's fees, and other costs
23 and expenses that comprise the total amount of common
24 expenses due under subdivision (g) (4) of this Section;
25 delivery and recordation of the notice in a timely
26 manner means the notice is delivered and recorded no

1 later than 14 days prior to the date of the judicial
2 foreclosure sale, entry of a judgment in a common law
3 strict foreclosure, or the taking of possession
4 pursuant to a court order under the Illinois Mortgage
5 Foreclosure Law.

6 (4.7) The association shall not charge or in any manner
7 collect from the purchaser or REO purchaser any common
8 expense amount that is not specified in the itemization on
9 the recorded notice required under subdivision (g) (4.5) of
10 this Section, except that the association may recover any
11 additional common expense amount that accrues after the
12 date of recordation of the notice until the date
13 immediately preceding the date of the judicial foreclosure
14 sale, entry of a judgment in common law strict foreclosure,
15 or the taking of possession pursuant to a court order under
16 the Illinois Mortgage Foreclosure Law. The total amount of
17 the recovery of common expenses, including any additional
18 common expense amount authorized under this paragraph
19 (4.7), shall not exceed the limit set forth in subdivision
20 (g) (4) of this Section.

21 (5) The notice of sale of a condominium unit under
22 subsection (c) of Section 15-1507 of the Code of Civil
23 Procedure shall state that the purchaser of the unit other
24 than a mortgagee shall pay to the association the amounts
25 ~~the assessments and the legal fees~~ required by subdivision
26 ~~subdivisions (g) (1) and (g) (4) of this Section 9 of this~~

1 ~~Act.~~ The statement of assessment account issued by the
2 association to a unit owner under subsection (i) of Section
3 18 of this Act, and the disclosure statement issued to a
4 prospective purchaser under Section 22.1 of this Act, shall
5 state the amount of the common expenses ~~assessments and the~~
6 ~~legal fees~~, if any, required by subdivision ~~subdivisions~~
7 ~~(g) (1) and (g) (4) of this Section 9 of this Act.~~

8 (h) A lien for common expenses shall be in favor of the
9 members of the board of managers and their successors in office
10 and shall be for the benefit of all other unit owners. Notice
11 of the lien may be recorded by the board of managers, or if the
12 developer is the manager or has a majority of seats on the
13 board of managers and the manager or board of managers fails to
14 do so, any unit owner may record notice of the lien. Upon the
15 recording of such notice the lien may be foreclosed by an
16 action brought in the name of the board of managers in the same
17 manner as a mortgage of real property.

18 (i) Unless otherwise provided in the declaration, the
19 members of the board of managers and their successors in
20 office, acting on behalf of the other unit owners, shall have
21 the power to bid on the interest so foreclosed at the
22 foreclosure sale, and to acquire and hold, lease, mortgage and
23 convey it.

24 (j) Any encumbrancer may from time to time request in
25 writing a written statement from the manager or board of
26 managers setting forth the unpaid common expenses with respect

1 to the unit covered by his encumbrance. Unless the request is
2 complied with within 20 days, all unpaid common expenses which
3 become due prior to the date of the making of such request
4 shall be subordinate to the lien of the encumbrance. Any
5 encumbrancer holding a lien on a unit may pay any unpaid common
6 expenses payable with respect to the unit, and upon payment the
7 encumbrancer shall have a lien on the unit for the amounts paid
8 at the same rank as the lien of his encumbrance.

9 (k) Nothing in Public Act 83-1271 is intended to change the
10 lien priorities of any encumbrance created prior to August 30,
11 1984.

12 (Source: P.A. 94-1049, eff. 1-1-07.)

13 (765 ILCS 605/22.1) (from Ch. 30, par. 322.1)

14 Sec. 22.1. (a) In the event of any resale of a condominium
15 unit by a unit owner other than the developer, ~~such owner shall~~
16 ~~obtain from~~ the Board of Managers of the association ~~and~~ shall
17 furnish to the unit owner and make available for inspection to
18 the prospective purchaser, either electronically or in
19 writing, within 14 days of a request from the unit owner or the
20 unit owner's agent or the prospective purchaser or the
21 prospective purchaser's agent if the association is managed by
22 a community association management firm or a community
23 association manager, as those terms are defined in Section 10
24 of the Community Association Manager Licensing and
25 Disciplinary Act, or within 21 days of the request if the

1 association is self-managed ~~upon demand, the following:~~

2 (1) A copy of the Declaration, by-laws, other
3 condominium instruments and any rules and regulations.

4 (2) A statement of any liens, including a statement of
5 the account of the unit setting forth the amounts ~~of unpaid~~
6 ~~assessments and other charges~~ due and owing as authorized
7 and limited by the provisions of subdivision (g)(1) of
8 Section 9 of this Act or the condominium instruments; and-

9 (A) if the ownership of the condominium unit is
10 being transferred to a purchaser at a judicial sale
11 other than the mortgagee, a statement setting forth the
12 total amount due and owing under subdivision (g)(4) of
13 Section 9 of this Act; or

14 (B) if ownership of the condominium unit is being
15 transferred to an REO purchaser by a mortgagee that
16 acquired title through a judicial foreclosure sale, a
17 consent foreclosure, a common law strict foreclosure,
18 or a deed in lieu of foreclosure, a statement setting
19 forth the total amount due and owing under subdivision
20 (g)(4) of Section 9 of this Act, except if the
21 association fails to record the notice in accordance
22 with subdivision (g)(4.5) of Section 9 of this Act,
23 then the amount due shall be deemed to be zero dollars.

24 (3) A statement of any capital expenditures
25 anticipated by the unit owner's association within the
26 current or succeeding two fiscal years.

1 (4) A statement of the status and amount of any reserve
2 for replacement fund and any portion of such fund earmarked
3 for any specified project by the Board of Managers.

4 (5) A copy of the statement of financial condition of
5 the unit owner's association for the last fiscal year for
6 which such statement is available.

7 (6) A statement of the status of any pending suits or
8 judgments in which the unit owner's association is a party.

9 (7) A statement setting forth what insurance coverage
10 is provided for all unit owners by the unit owner's
11 association.

12 (8) A statement that any improvements or alterations
13 made to the unit, or the limited common elements assigned
14 thereto, by the prior unit owner are in good faith believed
15 to be in compliance with the condominium instruments.

16 (9) The identity and mailing address of the principal
17 officer of the unit owner's association or of the other
18 officer or agent as is specifically designated to receive
19 notices.

20 (b) The principal officer of the unit owner's association
21 or such other officer as is specifically designated shall
22 furnish the ~~above~~ information required under subsection (a) of
23 this Section ~~when requested to do so in writing and within 30~~
24 ~~days of the request.~~

25 (c) Within 15 days of the recording of a mortgage or trust
26 deed against a unit ownership given by the owner of that unit

1 to secure a debt, the owner shall inform the Board of Managers
2 of the unit owner's association of the identity of the lender
3 together with a mailing address at which the lender can receive
4 notices from the association. If a unit owner fails or refuses
5 to inform the Board as required under subsection (c) then that
6 unit owner shall be liable to the association for all costs,
7 expenses and reasonable attorneys fees and such other damages,
8 if any, incurred by the association as a result of such failure
9 or refusal.

10 A reasonable fee covering the direct out-of-pocket cost of
11 providing such information and copying may be charged by the
12 association or its Board of Managers to the unit seller for
13 providing such information.

14 (Source: P.A. 87-692.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."